

AN ACT  
RELATING TO STANDARD VALUATION AND STANDARD FORFEITURE  
PROVISIONS FOR LIFE INSURANCE POLICIES OR CONTRACTS AND  
INCLUDING APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 508.36, Code 2014, is amended by adding the following new subsection:

NEW SUBSECTION. 01. *Definitions.*

a. As used in this section, unless the context otherwise requires:

(1) "*Accident and health insurance*" means policies or contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual.

(2) "*Appointed actuary*" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required in subsection 2, paragraph "b".

(3) "*Company*" means an entity which has done any of the following:

(a) Written, issued, or reinsured life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in this state and has at least one such policy or contract in force or on claim.

(b) Written, issued, or reinsured life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type

policies or contracts in any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type policies or contracts in this state.

(4) "*Deposit-type policy or contract*" means policies or contracts that do not incorporate mortality or morbidity risks and such policies or contracts as may be specified in the valuation manual.

(5) "*Life insurance*" means policies or contracts that incorporate mortality risk, including annuity and pure endowment contracts, and such policies or contracts as may be specified in the valuation manual.

(6) "*NAIC*" means the national association of insurance commissioners.

(7) "*Operative date of the valuation manual*" means the operative date of the valuation manual as provided in subsection 13.

(8) "*Policyholder behavior*" means any action a policyholder, contract holder, or any other person with the right to elect options, such as a certificate holder, may take under a policy or contract subject to this section including but not limited to lapse, withdrawal, transfer, deposit, premium payment, loan, annuitization, or benefit elections prescribed by the policy or contract, but excluding events of mortality or morbidity that result in benefits prescribed in their essential aspects by the terms of the policy or contract.

(9) "*Principle-based valuation*" means a reserve valuation that uses one or more methods or one or more assumptions determined by the insurer and that is required to comply with subsection 14 as specified in the valuation manual.

(10) "*Qualified actuary*" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American academy of actuaries qualification standards for actuaries signing such statements and who meets the requirements specified in the valuation manual.

(11) "*Tail risk*" means a risk that occurs either where the frequency of low probability events is higher than expected under a normal probability distribution or where there are observed events of very significant size or magnitude.

(12) "*Valuation manual*" means the manual of valuation instructions adopted by the NAIC as specified in this section or as subsequently amended.

*b.* This subsection is applicable on or after the operative date of the valuation manual.

Sec. 2. Section 508.36, subsection 1, Code 2014, is amended to read as follows:

1. *Reserve valuation.*

*a. Policies and contracts issued prior to operative date of valuation manual.*

(1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, referred to in this section as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and the net level premium method or other methods used in the calculation of such reserves issued on or after July 1, 1973, and prior to the operative date of the valuation manual. In calculating the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required in this section of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided for in this section and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

(2) The provisions set forth in subsections 3 through 12 shall apply to all policies and contracts, as appropriate, subject to this section that were issued on or after July 1, 1973, and prior to the operative date of the valuation manual and the provisions set forth in subsections 13 and 14 shall not apply to any such policies or contracts.

(3) The minimum standard for the valuation of policies and contracts issued prior to July 1, 1973, shall be the standard provided by the laws in effect immediately prior to that date.

*b. Policies and contracts issued on or after operative date of valuation manual.*

(1) The commissioner shall annually value, or cause to

be valued, the reserve liabilities for all outstanding life insurance policies or contracts, annuity and pure endowment policies or contracts, accident and health insurance policies or contracts, and deposit-type policies or contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in this section.

(2) The provisions set forth in subsections 13 and 14 shall apply to all policies or contracts issued on or after the operative date of the valuation manual.

Sec. 3. Section 508.36, subsection 2, Code 2014, is amended to read as follows:

2. *Actuarial opinion of reserves.* ~~This subsection is effective January 1, 1996.~~

a. Actuarial opinion of reserves prior to operative date of valuation manual. This paragraph "a" applies to an actuarial opinion of reserves submitted prior to the operative date of the valuation manual.

~~a.~~ (1) *General.* A life insurance company doing business in this state shall annually submit the written opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and are in compliance with applicable laws of this state. The commissioner shall define by rule the requirements and content of this opinion and add any other items deemed to be necessary.

~~b.~~ (2) *Actuarial analysis of reserves and assets supporting such reserves.*

~~(1)~~ (a) Unless exempted by rule, a life insurance company shall also annually include in the opinion required by ~~paragraph "a" subparagraph (1),~~ an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of policies and contracts specified by the commissioner by rule, when considered ~~with respect to~~ in light of the assets held by the company associated with respect to the reserves and related actuarial items, including, but not

limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, ~~are sufficient~~ make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

~~(2)~~ (b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this ~~section~~ paragraph "a".

~~e.~~ (3) Requirements for actuarial analysis opinions subject to subparagraph (2). An opinion required by ~~paragraph "b"~~ subparagraph (2) shall be governed by the following provisions:

~~(1)~~ (a) A memorandum, in form and substance acceptable to the commissioner as specified by rule, shall be prepared to support each actuarial opinion.

~~(2)~~ (b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

~~d.~~ (4) Requirement for all opinions subject to this paragraph. An opinion required under this ~~section~~ paragraph "a" is governed by the following provisions:

~~(1)~~ (a) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

~~(2)~~ (b) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

~~(3)~~ (c) The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the commissioner may by rule prescribe.

~~(4)~~ (d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a

company domiciled in this state.

~~(5)~~ (e) For the purposes of this ~~section~~ paragraph "a", "*qualified actuary*" means a member in good standing of the American academy of actuaries who meets the requirements of the commissioner as specified by rule.

~~(6)~~ (f) Except in cases of fraud or willful misconduct, a qualified actuary is not liable for damages to any person, other than to the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

~~(7)~~ (g) Disciplinary action which may be taken by the commissioner against the company or the qualified actuary shall be defined in rules adopted by the commissioner.

~~(8)~~—~~(a)~~ (h) (i) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this ~~section~~ paragraph "a" or by rules adopted pursuant to this ~~section~~ paragraph "a". Notwithstanding this subparagraph division, the memorandum or other material may be released by the commissioner if either of the following applies:

~~(i)~~ (A) The commissioner receives the written consent of the company with which the opinion is associated.

~~(ii)~~ (B) The American academy of actuaries requests that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

~~(b)~~ (ii) Once any portion of the confidential memorandum is cited by the company in its marketing, is cited before any governmental agency other than a state insurance department, or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

b. Actuarial opinion of reserves on or after operative date of valuation manual. This paragraph "b" applies to an actuarial opinion of reserves submitted on or after the operative date of the valuation manual.

(1) General. Every company with outstanding life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in

this state and subject to regulation by the commissioner shall annually submit the opinion of the appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual shall prescribe the specifics of this opinion including any items deemed to be necessary to its scope.

(2) *Actuarial analysis of reserves and assets supporting reserves.* Every company with outstanding life insurance policies or contracts, accident and health insurance policies or contracts, or deposit-type policies or contracts in this state and subject to regulation by the commissioner, except as exempted in the valuation manual, shall annually include in the opinion required by subparagraph (1), an opinion of the same appointed actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(3) *Requirements for opinions subject to subparagraph (2).* An opinion required by subparagraph (2) shall be governed by the following provisions:

(a) A memorandum, in form and substance as specified in the valuation manual, and that is acceptable to the commissioner, shall be prepared to support each actuarial opinion.

(b) If the company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual or the commissioner determines that the supporting memorandum provided by the company fails to meet the standards prescribed by the valuation manual or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum required by the commissioner.

(4) *Requirements for all opinions subject to this*

paragraph. Every opinion subject to this paragraph "b" shall be governed by the following provisions:

(a) The opinion shall be in form and substance as specified in the valuation manual and acceptable to the commissioner.

(b) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after the operative date of the valuation manual.

(c) The opinion shall apply to all policies and contracts subject to subparagraph (2) plus other actuarial liabilities as may be specified in the valuation manual.

(d) The opinion shall be based on standards adopted from time to time by the actuarial standards board or its successor, and on such additional standards as may be prescribed in the valuation manual.

(e) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(f) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion.

(g) Disciplinary action by the commissioner against the company or the appointed actuary shall be defined in rules adopted by the commissioner pursuant to chapter 17A.

Sec. 4. Section 508.36, subsection 3, paragraph a, unnumbered paragraph 1, Code 2014, is amended to read as follows:

For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies, the following:

Sec. 5. Section 508.36, subsection 3, paragraph a, subparagraph (2), Code 2014, is amended to read as follows:

(2) The commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of section 508.37, subsection 5, paragraph "e" "a", and prior to the operative date of section 508.37, subsection 5, paragraph "c", provided that for any category of policies issued on female risks, all modified net premiums and present values referred to



in this section may be calculated according to an age not more than six years younger than the actual age of the insured.

Sec. 6. Section 508.36, subsection 6, paragraph a, unnumbered paragraph 1, Code 2014, is amended to read as follows:

Except as otherwise provided in subsections 7, 10, and ~~12~~ 11, reserves calculated according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of future guaranteed benefits provided for by such policies, over the present value, at the date of valuation, of any future modified net premiums for such policies. The modified net premiums for such policy is the uniform percentage of the respective contract premiums for the benefits such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the present value, at the date of valuation, of such benefits provided for by the policy and the excess of the amount determined in subparagraph (1) over the amount determined in subparagraph (2), as follows:

Sec. 7. Section 508.36, subsection 10, paragraph a, Code 2014, is amended to read as follows:

a. If in any contract year the gross premium charged by a ~~life insurance~~ company on a policy or contract is less than the valuation net premium for the policy or contract, as calculated by the method used in calculating the reserve for such policy or contract but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards established in subsections 4 and 5.

Sec. 8. Section 508.36, subsection 12, Code 2014, is amended to read as follows:

12. *Minimum standards for accident and health ~~(disability, accident, and sickness)~~ plans insurance policies or contracts.* ~~The commissioner shall adopt rules containing the minimum standards applicable to the valuation of health, disability, and sickness and accident plans.~~ For accident and health insurance policies or contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 1, paragraph "b". For health, disability, and sickness and accident insurance policies or contracts issued on or after July 1, 1973, and prior to the operative date of the valuation manual, the minimum standard of valuation is the standard adopted by the commissioner by rule.

Sec. 9. Section 508.36, Code 2014, is amended by adding the following new subsections:

NEW SUBSECTION. 13. *Valuation manual for policies or contracts issued on or after operative date of valuation manual.*

a. For policies or contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required under subsection 1, paragraph "b", except as provided under paragraph "e" or "g" of this subsection.

b. The operative date of the valuation manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred:

(1) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two members, or three-fourths of the members voting, whichever is greater.

(2) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent of the direct premiums written as reported in the following annual statements submitted for 2008:

- (a) Life, accident, and health insurance annual statements.
- (b) Health insurance annual statements.
- (c) Fraternal benefit society annual statements.

(3) The standard valuation law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least forty-two of the following fifty-five jurisdictions: the fifty states of the United States, American Samoa, the American Virgin Islands, the District of Columbia, Guam, and Puerto Rico.

c. Unless a change in the valuation manual specifies a

later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:

(1) The changes to the valuation manual have been adopted by the NAIC by an affirmative vote representing:

(a) At least three-fourths of the members of the NAIC voting, but not less than a majority of the total membership.

(b) Members of the NAIC representing jurisdictions totaling greater than seventy-five percent of the direct premiums written as reported in the following annual statements most recently available prior to the vote in subparagraph division (a):

- (i) Life, accident, and health insurance annual statements.
- (ii) Health insurance annual statements.
- (iii) Fraternal benefit society annual statements.

d. The valuation manual shall specify all of the following:

(1) Minimum valuation standards for and definitions of the policies or contracts subject to subsection 1, paragraph "b". Such minimum valuation standards shall include all of the following:

(a) The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts, subject to subsection 1, paragraph "b".

(b) The commissioner's annuity reserve valuation method for annuity contracts subject to subsection 1, paragraph "b".

(c) Minimum reserves for all other policies of contracts subject to subsection 1, paragraph "b".

(2) Which policies or contracts or types of policies or contracts are subject to the requirements of a principle-based valuation in subsection 14, paragraph "a", and the minimum valuation standards consistent with those requirements.

(3) For policies and contracts subject to a principle-based valuation under subsection 14, specify all of the following:

(a) Requirements for the format of reports to the commissioner under subsection 14 which shall include information necessary to determine if the valuation is appropriate and in compliance with this section.

(b) Assumptions that are prescribed for risks over which the company does not have significant control or influence.

(c) Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of such procedures.

(4) For policies or contracts not subject to a

principle-based valuation under subsection 14, the minimum valuation standard shall do either of the following:

(a) Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual.

(b) Develop reserves that quantify the benefits and guarantees, and the funding, associated with the policies or contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring.

(5) Other requirements, including but not limited to those relating to reserve methods, models for measuring risk, generation of economic scenarios, assumptions, margins, use of company experience, risk measurement, disclosure, certifications, reports, actuarial opinions and memorandums, transition rules, and internal controls.

(6) The data and form of the data required under subsection 15, to whom the data must be submitted, and other specified requirements, including data analyses and reporting of analyses.

e. In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation manual is not, in the opinion of the commissioner, in compliance with this subsection, then the company shall, with respect to such requirements, comply with minimum valuation standards prescribed by the commissioner by rule.

f. The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and opine on the appropriateness of any reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirements set forth in this section. The commissioner may rely upon the opinion, regarding provisions contained in this section, of a qualified actuary engaged by the commissioner of another state, district, or territory of the United States. As used in this paragraph, "engage" includes employment of and contracting with a qualified actuary.

g. The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary in order to comply with the requirements of the valuation manual or this section and the company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as authorized pursuant to section 505.8.

NEW SUBSECTION. 14. *Requirements of principle-based valuation.*

a. A company shall establish reserves using a principle-based valuation that meets all of the following conditions for policies or contracts as specified in the valuation manual:

(1) Quantifies the benefits and guarantees, and the funding, associated with the policies or contracts and the risks of the policies or contracts at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the policies or contracts. For policies or contracts with a significant tail risk, the valuation reflects conditions appropriately adverse to quantify the tail risk.

(2) Incorporates assumptions, risk analysis methods, and financial models and management techniques that are consistent with, but not necessarily identical to, those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods.

(3) Incorporates assumptions that are derived in one of the following manners:

(a) The assumption is prescribed in the valuation manual.

(b) For assumptions that are not prescribed in the valuation manual, the assumptions shall meet either of the following requirements:

(i) Be established utilizing the company's available experience, to the extent that the experience is relevant and statistically credible.

(ii) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

(4) Provides margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

b. A company using a principle-based valuation for one or more policies or contracts subject to this subsection as specified in the valuation manual shall do all of the following:

(1) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(2) Provide to the commissioner and the board of directors

an annual certification of the effectiveness of the company's internal controls with respect to the principle-based valuation. Such controls shall be designed to assure that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that the valuation is made in accordance with the valuation manual. The certification shall be based on the internal controls in place as of the end of the preceding calendar year.

(3) Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

c. A principle-based valuation may include a prescribed formulaic reserve component.

NEW SUBSECTION. 15. *Experience reporting for policies or contracts in force on or after operative date of valuation manual.* A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

NEW SUBSECTION. 16. *Confidentiality.*

a. *Definition.* For purposes of this subsection, "confidential information" means all of the following:

(1) A memorandum in support of an opinion submitted under subsection 2 and any other documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with the memorandum.

(2) All documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under subsection 13, paragraph "f"; provided, however, that if an examination report or other materials prepared in connection with an examination made under chapter 507 is not held as private and confidential information under section 507.14, an examination report or other material prepared in connection with an examination made under subsection 13, paragraph "f", shall not be "confidential information" to the same extent as if such examination report or other material had been prepared under chapter 507.

(3) Any reports, documents, materials, or other information developed by a company in support of, or in connection with, an annual certification by the company under subsection 14,

paragraph "b", subparagraph (2), evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with such reports, documents, materials, or other information.

(4) Any principle-based valuation report developed under subsection 14, paragraph "b", subparagraph (3), and any other documents, materials, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with such report.

(5) Any documents, materials, data, or other information submitted by a company under subsection 15, collectively known as "*experience data*" or "*experience materials*", and any other documents, materials, data, or other information, including but not limited to all working papers, and copies thereof, created or produced in connection with such experience data, in each case that includes any potentially company-identifying or personally identifiable information, that is provided to or obtained by the commissioner, together with any "*experience data*" or "*experience materials*", and any other documents, materials, data, or other information, including but not limited to all working papers, and copies thereof, created, produced, obtained by, or disclosed to the commissioner or any other person in connection with such experience data or experience materials.

*b. Privilege for, and confidentiality of, confidential information.*

(1) Except as provided in this subsection, a company's confidential information is confidential by law and privileged, and shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action; provided, however, that the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as a part of the commissioner's official duties.

(2) Neither the commissioner nor any person who received confidential information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential

information.

(3) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information as follows:

(a) With other state, federal, or international regulatory agencies and with the NAIC and its affiliates and subsidiaries.

(b) In the case of confidential information specified in paragraph "a", subparagraphs (1) and (4) only, with the actuarial board for counseling and discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings, and with state, federal, and international law enforcement officials.

(c) The sharing of confidential information under subparagraph division (a) or (b) requires that the recipient of the confidential information agrees, and has the legal authority to agree to maintain the confidentiality and privileged status of such documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner.

(4) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, or information, from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the actuarial board for counseling and discipline, or its successor, and shall maintain as confidential or privileged any documents, materials, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, data, or other information.

(5) The commissioner may enter into agreements governing the sharing and use of information consistent with this paragraph "b".

(6) No waiver of any applicable privilege or claim of confidentiality in the confidential information shall occur as a result of disclosure to the commissioner under this subsection or as a result of sharing as authorized in subparagraph (3).

(7) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established in this paragraph "b" shall be available and



enforced in any proceeding in, and in any court of, this state.

(8) For the purposes of this subsection, *"regulatory agency"*, *"law enforcement agency"*, and the *"NAIC"*, include but are not limited to their employees, agents, consultants, and contractors.

*c. Sharing of confidential information.* Notwithstanding paragraph *"b"*, any confidential information specified in paragraph *"b"* may be shared as follows:

(1) May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under subsection 2 or a principle-based valuation report developed under subsection 14, paragraph *"b"*, subparagraph (3), by reason of an action required by this section or by rules promulgated under this section.

(2) May otherwise be released by the commissioner with the written consent of the company.

(3) Once any portion of a memorandum in support of an opinion submitted under subsection 2 or a principle-based valuation report developed under subsection 14, paragraph *"b"*, subparagraph (3), is cited by a company in its marketing or is publicly volunteered to or before a governmental agency other than a state insurance department or is released by the company to the news media, all portions of such memorandum or report shall no longer be confidential information.

NEW SUBSECTION. 17. *Single state exemption.*

*a.* The commissioner may exempt specific product forms or product lines of a domestic company that is licensed and doing business only in this state from the requirements of subsection 13 provided that all of the following have occurred:

(1) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing.

(2) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and promulgated by rule.

*b.* For any company granted an exemption under this subsection, subsections 2 through 12 shall be applicable. With respect to any company applying this exemption, any reference to subsection 13 found in subsections 2 through 12 shall not be applicable.

Sec. 10. Section 508.37, Code 2014, is amended by adding the

following new subsection:

NEW SUBSECTION. 01. As used in this section, "*operative date of the valuation manual*" means the same as provided in section 508.36, subsection 13.

Sec. 11. Section 508.37, subsection 6, paragraph h, subparagraph (6), Code 2014, is amended to read as follows:

(6) Any For policies issued prior to the operative date of the valuation manual, any commissioners' standard ordinary mortality tables adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

Sec. 12. Section 508.37, subsection 6, paragraph h, Code 2014, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (07) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the commissioners' standard mortality table for use in determining the minimum forfeiture standard that may be substituted for the Commissioners' 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners' 1980 Extended Term Insurance Table. If the commissioner approves by rule the Commissioners' Standard Ordinary Mortality Table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture standard for policies or contracts issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

Sec. 13. Section 508.37, subsection 6, paragraph h, Code 2014, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners Standard Mortality Table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the commissioner approves by regulation any Commissioners Standard Industrial Mortality Table adopted by the national association of insurance commissioners for use in determining the minimum nonforfeiture

standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

Sec. 14. Section 508.37, subsection 6, paragraph i, Code 2014, is amended to read as follows:

*i.* The nonforfeiture interest rate is defined as follows:

(1) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent of the calendar year statutory valuation interest rate for the policy as defined in section 508.36, rounded to the nearest one quarter of one percent, provided, however, that the nonforfeiture interest rate shall not be less than four percent.

(2) For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual.

Sec. 15. APPLICABILITY. This Act applies on and after the operative date of the valuation manual as provided in section 508.36, as amended in this Act.

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PAM JOCHUM

President of the Senate

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KRAIG PAULSEN

Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2131, Eighty-fifth General Assembly.

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MICHAEL E. MARSHALL

Secretary of the Senate

Approved \_\_\_\_\_, 2014

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TERRY E. BRANSTAD

Governor